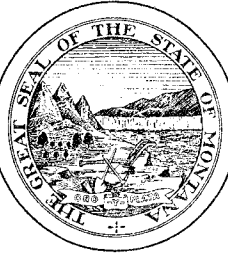


DEPARTMENT OF  
PUBLIC HEALTH AND HUMAN SERVICES

EXHIBIT 5  
DATE 2-16-09



BRIAN SCHWEITZER  
GOVERNOR

ANNA WHITING SORRELL  
DIRECTOR

STATE OF MONTANA

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SENIOR & LONG TERM CARE DIVISION  
PO BOX 4210, 2030 11TH AVE  
HELENA, MT 59604-4210

Date: January 29, 2009

To: Representative Teresa Henry, Chair  
Health and Human Services Joint Appropriations Subcommittee

From: Kelly Williams, Administrator  
Senior and Long Term Care Division

RE: **Veterans Home Medicaid Percentages and IGT Question**

This information is being provided in response to the questions that Senator Schmidt and Senator Lewis asked regarding the Medicaid percentages at both Montana Veterans Homes and the number of nursing facilities that continue to participate in the Intergovernmental Fund Transfer program (IGT).

**Medicaid Percentage Information for State Veterans Nursing Homes:**

The following table represents the Medicaid utilization at the Montana Veterans Home and the Eastern Montana Veterans Home from 2005 to current. The source of this information is the monthly nursing facility staffing and occupancy reports that are submitted to the Division from all nursing facilities.

Medicaid %	FY05	FY06	FY07	FY08	FY09
					5 MTHS
MVH - Columbia Falls	22.39%	33.75%	37.43%	37.52%	38.15%
EMVH - Glendive	27.12%	27.09%	35.78%	35.82%	33.80%

**Number of Facilities that participate in the IGT program:**

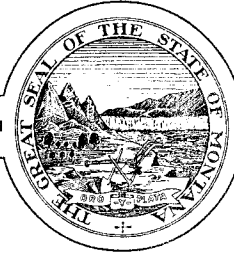
The following table shows the number of county affiliated nursing facilities that participate in the Intergovernmental Fund Transfer program to provide supplemental payments to nursing facilities by each year. The source of this information is the annual IGT distribution spreadsheet.

Year	Number of Facilities
FY 2006	32
FY 2007	31
FY 2008	27
FY 2009	25 (estimated)

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PUBLIC HEALTH AND HUMAN SERVICES

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RE: Veterans Issues

This information is provided in response to the questions that Representative Morgan asked regarding recent or pending activity at the federal level related to Veterans Administration legislation impacting long term care and veterans issues.

We have provided information from three (3) recent law changes and two (2) recent bills that have been introduced at the federal level relative to Veterans issues. Also a recent General Accounting Office (GAO) report has implications regarding expenditures from the federal VA for long term care in nursing facilities and non-institutional long term care.

**LAW CHANGES**

- I. Public Law 108-422 (108th Congress) Veterans Health Programs Improvement Act of 2004 November 30, 2004

Authority to provide VA ASSISTANCE FOR HIRING AND RETENTION OF NURSES AT STATE VETERANS' HOMES.

PL 108- 422 was signed by the President on November 30, 2004 and after 49 months was published with final rules in December 2008. The effective date of this legislation is July 1, 2009.

- II Public Law 109-461 (109th Congress) Veterans Benefits, Health Care, and Information Technology Act of 2006 signed December 22, 2006 which provides the authority To Treat Certain Health Facilities as State Homes. The VA may treat a health facility (or certain beds in a health facility) as a State home whom meets the standards for the provision of nursing home care that are applicable to State homes, as prescribed by the VA and shall not exceed 100 beds in the aggregate for all States.

Also, provides nursing home care per diem to any veteran who has a service-connected disability rated at 70 percent or more:

PL 109-461 signed by the President on December 22, 2006, and after 25 months, still has not been implemented.

III. Public Law 110-387 – Veterans' Mental Health and Other Care Improvements Act of 2008 (S. 2162)'Signed by the President on October 10, 2008.

Includes several provisions of other legislation such as: Veterans Rural Health Care Act of 2008 (H.R. 1527), Rural Veterans Access to Care Act - which directs the Secretary of Veterans Affairs to conduct a three-year pilot program under which a highly rural veteran who is enrolled in the system of patient enrollment of the Department of Veterans Affairs (VA) and who resides within a designated area of the Veterans Integrated Service Network may elect to receive covered health services through a non-VA health care provider.

PL 110-387 was signed into law by the President on October 10, 2008, rules are pending with VA

**INTRODUCED LEGISLATION:**

I. H.R. 32: 111st Congress 2009-2010 Veterans Outreach Improvement Act of 2009

Directs the Secretary of Veterans Affairs to establish, maintain, and modify as necessary procedures for ensuring the effective coordination of outreach activities of the Department of Veterans Affairs (VA) between and among the Office of the Secretary, the Office of Public Affairs, the Veterans Health Administration, the Veterans Benefits Administration, and the National Cemetery Administration.

Directs the Secretary to give priority to state and county outreach assistance in locations that: (1) have relatively large concentrations of veterans; or (2) are experiencing growth in veteran populations. Authorizes the Secretary to make grants to state or county veteran's agencies for state and local outreach services. This legislation was just introduced

S. 252: 111st Congress, in 2009-2010.

II. 2009-2010 A bill to amend title 38, United States Code to enhance the capacity of the Department of Veterans Affairs to recruit and retain nurses and other critical health-care professionals, to improve the provision of health care veterans.

This legislation was just introduced

## **GENERAL ACCOUNTING OFFICE:**

The GAO issued a recent report that was critical of its spending for both nursing facility and non-institutional care for long term care and that they underestimated those dollars in both categories of care.

VA Health Care: Long-Term Care Strategic Planning and Budgeting Need  
Improvement GAO-09-145 January 23, 2009 report

VA estimated that spending for both nursing home and non-institutional care will increase in fiscal year 2009 by about \$108 million and \$165 million, respectively. However, VA may have underestimated its nursing home spending because it assumed nursing home costs would increase about 2.5 percent, an amount that appears unrealistically low compared to VA's recent experience and other indicators. For non-institutional care, VA proposed a spending increase in order to partially reduce gaps in services. However, VA's estimated non-institutional spending for fiscal year 2009 appears to be unreliable, because it is based on a cost assumption that appears unrealistically low and a workload projection that appears unrealistically high, given recent VA experience. The net effect of these two factors on VA's fiscal year 2009 non-institutional spending estimate is unknown. VA's fiscal year 2009 budget justification did not explain the rationale behind its nursing home and non-institutional cost assumptions or its plans for how it will increase non-institutional workload.

**Public Law 109-461**  
**109th Congress**

**Veterans Benefits, Health Care, and Information Technology Act of 2006**  
**December 22, 2006**

**SEC. 211. MODIFICATIONS TO STATE HOME AUTHORITIES.**

(a) Nursing Home Care and Prescription Medications in State Homes for Veterans With Service-Connected Disabilities.-

(1) Nursing home care.--Subchapter V of chapter 17 is amended by adding at the end the following new section:

Sec. 1745. Nursing home care and medications for veterans with service-connected disabilities

(a) (1) The Secretary shall pay each State home for nursing home care at the rate determined under paragraph (2), in any case in which such care is provided to any veteran as follows:

(A) Any veteran in need of such care for a service-connected disability.

(B) Any veteran who--

(i) has a service-connected disability rated at 70 percent or more; and

(ii) is in need of such care.

(2) The rate determined under this paragraph with respect to a State home is the lesser of--

(A) the applicable or prevailing rate payable in the geographic area in which the State home is located, as determined by the Secretary, for nursing home care furnished in a non-Department nursing home (as that term is defined in section 1720(e)(2) of this title); or

(B) a rate not to exceed the daily cost of care, as determined by the Secretary, following a report to the Secretary by the director of the State home.

(3) Payment by the Secretary under paragraph (1) to a State home for nursing home care provided to a veteran described in that paragraph constitutes payment in full to the State home for such care furnished to that veteran.

(2) Provision of prescription medicines.--Such section, as so added, is further amended by adding at the end the following new subsection:

(b) The Secretary shall furnish such drugs and medicines as may be ordered on prescription of a duly licensed physician as specific therapy in the treatment of illness or injury to any veteran as follows:

(1) Any veteran who--

(A) is not being provided nursing home care for which payment is payable under subsection (a); and

(B) is in need of such drugs and medicines for a service-connected disability.

(2) Any veteran who--

(A) has a service-connected disability rated at 50 percent or more;

- (B) is not being provided nursing home care for which payment is payable under subsection (a.); and
- (C) is in need of such drugs and medicines.

(3) Conforming amendments--

(A) Criteria for payment--Section.

1741 (a)(1) is amended by striking "The" and inserting "Except as provided in section 1745 of this title, the".

(B) Eligibility for nursing home care--Section 1710(a)(4) is amended-

(i) by striking "and" before "the requirement in section 1710B of this title"; and

(ii) by inserting ", and the requirement in section 1745 of this title to provide nursing home care and prescription medicines to veterans with service-connected disabilities in State homes" after "a program of extended care services"

(4) Clerical amendment.--The table of sections at the beginning of chapter 17 is amended by inserting after the item relating to section 1744 the following new item:

"1745 Nursing home care and medications for veterans with service-connected disabilities."

(5) Effective date--The amendments made by this subsection shall take effect 90 days after the date of the enactment of this Act.

(b) Identification of Veterans in State Homes--Such chapter is further amended--

(1) in section 1745, as added by subsection (a)(1) of this section, by adding at the end the following new subsection:

"(c) Any State home that requests payment or reimbursement for services provided to a veteran under this section shall provide to the Secretary such information as the Secretary considers necessary to identify each individual veteran eligible for payment under each section."; and

(2) in section 1741, by adding at the end the following new subsection:

"(f) Any State home that requests payment or reimbursement for services provided to a veteran under this section shall provide to the Secretary such information as the Secretary considers necessary to identify each individual veteran eligible for payment under such section."

(c) Authority To Treat Certain Health Facilities as State Homes.--

(1) Authority--Subchapter III of chapter 81 is amended by adding at the end the following new section:

Sec 8138. Treatment of certain health facilities as State homes

"(a) The Secretary may treat a health facility (or certain beds in a health facility) as a State home for purposes of subchapter V of chapter 17 of this title if the following requirements are met:

“(1) The facility (or certain beds in such facility) meets the standards for the provision of nursing home care that are applicable to State homes, as prescribed by the Secretary under section 8134(b) of this title, and such other standards relating to the facility (or certain beds in such facility) as the Secretary may require.

“(2) The facility (or certain beds in such facility) is licensed or certified by the appropriate State and local agencies charged with the responsibility of licensing or otherwise regulating or inspecting State home facilities.

“(3) The State demonstrates in an application to the Secretary that, but for the treatment of a facility (or certain beds in such facility), as a State home under this subsection, a substantial number of veterans residing in the geographic area in which the facility is located who require nursing home care will not have access to such care

“(4) The Secretary determines that the treatment of the facility (or certain beds in such facility) as a State home best meets the needs of veterans for nursing home care in the geographic area in which the facility is located.

“(5) The Secretary approves the application submitted by the State with respect to the facility (or certain beds in such facility).

“(b) The Secretary may not treat a health facility (or certain beds in a health facility) as a State home under subsection (a) if the Secretary determines that such treatment would increase the number of beds allocated to the State in excess of the limit on the number of beds provided for by regulations prescribed under section 8134(a) of this title.

“(c) The number of beds occupied by veterans in a health facility for which payment may be made under subchapter V of chapter 17 of this title by reason of subsection (a) shall not exceed—

“(1) 100 beds in the aggregate for all States; and

“(2) in the case of any State, the difference between--

“(A) the number of veterans authorized to be in beds in State homes in such State under regulations prescribed under section 8134(a) of this title; and

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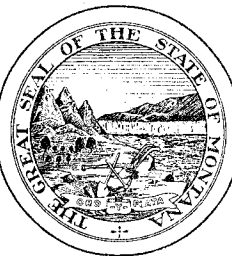
“(d) The number of beds in a health facility in a State that has been treated as a State home under subsection (a) shall be taken into account in determining the unmet need for beds for State homes for the State under section 8134(d)(1) of this title.

“(e) The Secretary may not treat any new health facilities (or any new certain beds in a health facility) as a State home under subsection (a) after September 30, 2009”.

(2) Clerical amendment.--The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 8137 the following new item:

“8138. Treatment of certain health facilities as State homes.”

DEPARTMENT OF  
PUBLIC HEALTH AND HUMAN SERVICES



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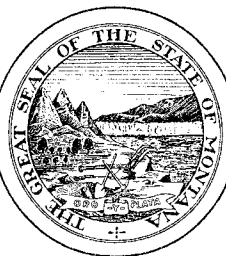
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**Public Law 109-461**  
**109th Congress**

**Veterans Benefits, Health Care, and Information Technology Act of 2006**  
**December 22, 2006**

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(a) (1) The Secretary shall pay each State home for nursing home care at the rate determined under paragraph (2), in any case in which such care is provided to any veteran as follows:

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(B) Any veteran who--

(i) has a service-connected disability rated at 70 percent or more; and

(ii) is in need of such care.

(2) The rate determined under this paragraph with respect to a State home is the lesser of--

(A) the applicable or prevailing rate payable in the geographic area in which the State home is located, as determined by the Secretary, for nursing home care furnished in a non-Department nursing home (as that term is defined in section 1720(e)(2) of this title); or

(B) a rate not to exceed the daily cost of care, as determined by the Secretary, following a report to the Secretary by the director of the State home.

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(4) Clerical amendment.--The table of sections at the beginning of chapter 17 is amended by inserting after the item relating to section 1744 the following new item:

"1745 Nursing home care and medications for veterans with service-connected disabilities."

(5) Effective date--The amendments made by this subsection shall take effect 90 days after the date of the enactment of this Act.

(b) Identification of Veterans in State Homes--Such chapter is further amended--

(1) in section 1745, as added by subsection (a)(1) of this section, by adding at the end the following new subsection:

"(c) Any State home that requests payment or reimbursement for services provided to a veteran under this section shall provide to the Secretary such information as the Secretary considers necessary to identify each individual veteran eligible for payment under such section."; and

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“(c) The number of beds occupied by veterans in a health facility for which payment may be made under subchapter V of chapter 17 of this title by reason of subsection (a) shall not exceed—

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“(A) the number of veterans authorized to be in beds in State homes in such State under regulations prescribed under section 8134(a) of this title; and

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“(d) The number of beds in a health facility in a State that has been treated as a State home under subsection (a) shall be taken into account in determining the unmet need for beds for State homes for the State under section 8134(d)(1) of this title.

“(e) The Secretary may not treat any new health facilities (or any new certain beds in a health facility) as a State home under subsection (a) after September 30, 2009”.

(2) Clerical amendment.--The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 8137 the following new item:

“8138. Treatment of certain health facilities as State homes.”